IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PETER D. DOCHINEZ, BLACK DIAMOND ENERGY, INC. and BLACK DIAMOND ENERGY OF DELAWARE, INC.,	
Plaintiffs,	
v.)	2:11cv984 Electronic Filing
MITCHELL RESOURCES, LLC,	Electronic Fining
Defendant.)	

MEMORANDUM ORDER

AND NOW, this 23rd day of September, 2013, upon due consideration of the remaining portion of defendant's motion to dismiss for lack of subject matter jurisdiction and the parties' submissions in conjunction therewith, IT IS ORDERED that [55] the motion be, and the same hereby is, denied.

Even assuming that one or more of the limited partnerships resulted in the joinder of a non-diverse party, the limited partnerships were permitted to join in the motion to enforce pursuant to the transfer of interest that would occur upon the granting of that motion. The limited partnerships were not indispensable or necessary parties at any time under Federal Rule of Civil Procedure 19. Nor are they parties that had or would have any underlying claim or cause of action in this lawsuit. Defendant was served with the motion; it understood the joinder to be solely for the purpose of effectuating the settlement agreement; and the transferring of the benefits to the limited partnerships upon execution of the settlement agreement constituted a transfer of interest within the scope of Fed. R. Civ. P 25(c), thereby permitting the joinder of the limited partnerships thereunder. As such, diversity jurisdiction existed when the action was filed and the addition of the limited partnerships solely for the purpose of completing the transfer of

interest sought to be achieved through the settlement agreement was within the joinder permitted by <u>Freeport-McMoRan, Inc. v. KN Energy, Inc.</u>, 498 U.S. 426 (1991) (per curiam).

s/ David Stewart Cercone
David Stewart Cercone
United States District Judge

cc: Michael Kaminski, Esquire

Albert Zangrilli, Esquire Michael Yukevich, Esquire

(Via CM/ECF Electronic Mail)